

1 **WAGANAKISING ODAWAK STATUTE**
2 **CRIMES**
3
4

5 **SECTION I. SHORT TITLE**
6

7 This Statute may be cited as the “Crimes Statute,” and it repeals and replaces Criminal Code,
8 WOS 1997014; WOTCL 9.101 and Checking, Draft or Oder for Payment of Money, WOS 2004-
9 05; WOTCL 9.401
10
11

12 **SECTION II. PURPOSE**
13

14 The purpose of this Statute is to set forth the Tribe’s sovereign right to exercise its power to
15 prohibit certain conduct as a matter of public policy within its territory.
16
17

18 **SECTION III. DEFINITIONS**
19

20 **A.** “Act” means some conduct or a series of related actions arising from and performed
21 pursuant to a single design or purpose.
22

23 **B.** “Actual physical control” of a vehicle requires that the person be physically in or on the
24 vehicle and have the capability to operate the vehicle, regardless of whether the person is
25 actually operating the vehicle at the time.
26

27 **C.** “Adult” means any person over eighteen (18) years of age for purposes of criminal
28 jurisdiction.
29

30 **D.** “Charges” means the complaint filed by the Prosecutor.
31

32 **E.** “Chief of Police” means the Chief of the Little Traverse Bay Bands of Odawa Indians
33 Law Enforcement.
34

35 **F.** “Controlled substance” is defined and described in the Uniform Controlled Substances
36 Act, 21 U.S.C. Section 812, as updated, and any controlled substance defined in that Act that is

1 mixed with or contains any of the following unless use and/or possess is defined or reclassified
2 by federal or Tribal law:

- 3
- 4 **1.** heroin;
- 5
- 6 **2.** cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 7
- 8 **3.** ecgonine, its derivatives, their salts, isomers, and salts of isomers; or cocaine
- 9 base;
- 10
- 11 **4.** phencyclidine (PCP);
- 12
- 13 **5.** lysergic acid diethylamide (LSD);
- 14
- 15 **6.** N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide;
- 16
- 17 **7.** marihuana;
- 18
- 19 **8.** methamphetamine, its salts, isomers, and salts of its isomers.
- 20

21 **G.** “Conveyance” means any motor vehicle, ship, vessel, railroad car, trailer, aircraft or
22 sleeping car.

23

24 **H.** “Convicted” means that the offender has been subject to penal consequences based on the
25 conviction, however the conviction was styled. This applies to adult offenders and juveniles who
26 are prosecuted as adults.

27

28 **I.** “Department” means the Little Traverse Bay Bands of Odawa Indians Law Enforcement.

29

30 **J.** “Enterprise” means an ongoing organization, formal or informal, that functions both as a
31 continuing unit and has a common purpose of engaging in a course of conduct.

32

33 **K.** “Imprisonment” means incarceration pursuant to a conviction, regardless of the nature of
34 the institution in which the offender serves the sentence. This term must be interpreted broadly to
35 include, for example, confinement is a state “prison” as well as in a local or Tribal “jail.”

1 **L.** “Indian” means a person who is a member of a federally recognized Indian Tribe.

2
3 **M.** “Indian Tribe” means any federally recognized Tribe.

4
5 **N.** “Knowingly” means with full knowledge and intent.

6
7 **O.** “Mental state of malice” means a person acts “maliciously” or “with malice” when that
8 person consciously formulates a plan to injure the person or property of another and takes steps
9 to carry out that plan.

10
11 **P.** “Mental state of intent” means a person acts intentionally or with intent with respect to
12 conduct when that person has the conscious desire to engage in certain conduct.

13
14 **Q.** “Mental state of knowledge” means a person acts “knowingly” or “with knowledge”
15 when that person is aware of his or her actions and the probable consequences of those actions.

16
17 **R.** “Mental state of wanton or reckless” means a person acts “wantonly” or “recklessly”
18 when that person is aware, or should be aware, that certain conduct will endanger the health,
19 safety, or property of others but persists in engaging in the conduct despite the risks.

20
21 **S.** “Mental state of negligent” means a person acts “negligently” or “with neglect” when
22 that person acts in a manner that endangers the safety or property of others without exercising the
23 care that a reasonably prudent person would exercise under the same or similar circumstances.

24
25 **T.** “Minor” or “Juvenile” means an individual who has not attained the age of eighteen (18)
26 years.

27
28 **U.** “Motor Vehicle” means any car, truck, motorcycle, or other motor-operated vehicle.

29
30 **V.** “Non-Indian” means any person who is not a member of a federally recognized Indian
31 Tribe.

32
33 **W.** “Normal faculties” means the ability to perform the many regular mental and physical
34 acts of our daily lives. This includes, but is not limited to the ability to see, hear, walk, talk,
35 judge distances, drive a motor vehicle, make judgments, and act in emergencies.

1 **X.** “Property” means anything of value and includes, but is not limited to, the following:

2
3 1. financial resources;

4
5 2. real property;

6
7 3. tangible and intangible personal property; and

8
9 4. services.

10
11 **Y.** “Real property” means land, anything erected on it, and any interests in the land.

12
13 **Z.** “Resides” means, with respect to an individual, the location of the individual’s home or
14 other place where the individual habitually lives.

15
16 **AA.** “Structure” means a building of any kind, either temporary or permanent, that has a roof
17 over it, and includes portable buildings.

18
19 **BB.** “Territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians” means
20 “areas referenced in Public Law 103-324, 25 U.S.C. Section 1300k-2(b)(2)(A) as the boundaries
21 *of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third*
22 *and fourth’ of the Treaty of 1855, 11 Stat. 621.” Little Traverse Bay Bands Constitution, Article*
23 *V(A)(1)(a).*

24
25 **CC.** “Tribal Court” means the Little Traverse Bay Bands of Odawa Indians Tribal Court.

26
27 **DD.** “Tribal member” means a person who is an enrolled citizen of the Little Traverse Bay
28 Bands of Odawa Indians.

29
30 **EE.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians or LTBB.

31
32 **FF.** “Unlawful debt” means any money or other thing of value constituting principal or
33 interest of a debt that is legally unenforceable under the laws of the Little Traverse Bay Bands of
34 Odawa Indians in whole or in part because the debt was incurred or contracted in violation of the
35 law.

1 **GG.** “Vehicle” means every device in, upon, or by which any person or property is or may be
2 transported or drawn upon a highway, except devices used exclusively upon stationary rails or
3 tracks.
4

5 **HH.** “Vessel” means a boat that is subject to a license tax for operation and includes every
6 description of watercraft, barge, and airboat, other than a seaplane, on the water used or capable
7 of being used as a means of transportation on water.
8

9 **II.** “Willfully” means intentionally, knowingly, and purposely.
10
11

12 **SECTION IV. INCHOATE CRIMES**

13

14 **A. Attempt to Commit a Crime.**

15

16 A person did some act toward committing the crime; and the act went beyond just thinking or
17 talking about it shall be guilty of Attempt to Commit a Crime, which is punishable by up to one
18 (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute,
19 except for Attempted Homicide.
20

21 **1.** It is not an attempt to commit a crime if a person abandoned his or her attempt to
22 commit the crime or otherwise prevented its commission under circumstances indicating
23 a complete and voluntary renunciation of his or her criminal purpose.
24

25 **2.** A person may still be found guilty of an attempt to commit a crime if a person
26 would have committed the crime except that someone prevented a person from
27 committing the crime or a person failed to commit the crime.
28

29 **B. Criminal Solicitation.**

30

31 A person solicited a person to commit a crime; and a person commanded, encouraged, hired or
32 requested a person to engage in specific conduct that would constitute the commission of the
33 solicited crime or an attempt to commit the solicited crime shall be guilty of a crime of Criminal
34 Solicitation, that is punishable by up to three (3) years of imprisonment and up to \$15,000.00 in
35 fines and is a felony under this Statute.
36

1 **1.** It is not necessary that a person do any act in furtherance of the crime solicited.

2
3 **2.** **Definition.** “Solicit” means to earnestly ask or try to induce the person solicited to
4 do the thing solicited.

5
6 **3.** **Defense.** It is a defense to the charge of Criminal Solicitation if a person, after
7 soliciting a person to commit the solicited crime, persuades the person not to commit the
8 crime or otherwise prevents the commission of the crime.

9
10 **C. Criminal Conspiracy.**

11
12 A person intended for the crime to be committed; and in order to carry out his or her intent,
13 agreed, conspired, combined or confederated with the alleged person(s) to cause the crime to be
14 committed by them individually or together or by some other person shall be guilty of a crime of
15 Criminal Conspiracy, that is punishable by up to three (3) years of imprisonment and up to
16 \$15,000.00 in fines and is a felony under this Statute.

17
18 **1.** It is not necessary that the agreement, conspiracy, combination, or confederation
19 to commit the crime be expressed in any particular words or that words pass between the
20 conspirators.

21
22 **2.** It is not necessary that a person do any act in furtherance of the crime conspired.

23
24 **3.** **Defense.** It is a defense to the charge of Criminal Conspiracy that if a person,
25 after conspiring with one or more persons to commit the crime, persuades the alleged
26 person or persons not to commit the crime or otherwise prevented the commission of the
27 crime.

28
29
30 **SECTION V. CRIMINAL HOMICIDE**

31
32 **A. Homicide**

33
34 A person intentionally causes the death of another person; or with the intent to cause bodily
35 injury to a person, or to assault, threaten, menace, intimidate or endanger any person, and causes
36 the death of that person or any other person; or acting alone or with one or more persons,

1 voluntarily commits or participates in the commission or attempt to commit any crime, and in the
2 course of or in furtherance of the crime that is being committed or attempted, or in the immediate
3 flight therefrom by anyone, the death of a person is caused; or recklessly or by gross negligence
4 causes the death of another person; or under circumstances manifesting indifference to the value
5 of human life, he intentionally engages in conduct which creates significant risk of injury or
6 death to a person, and thereby causes the death of another person; or operates a motor vehicle in
7 a reckless or grossly negligent manner, or while intoxicated, or while under the influence or
8 alcohol, drugs or other intoxicant, and such conduct causes the death of another person shall be
9 guilty of a crime of Homicide that is punishable by up to three (3) years of imprisonment and up
10 to \$5,000.00 in fines and is a felony under this Statute.

11
12 **B.** “Human being” means a person who has been born and was alive at the time of the
13 criminal act.

14
15 **C.** It is not necessary for the Tribe to prove that a person had a premeditated design or intent
16 to kill.

17
18
19 **SECTION VI. ATTEMPTED HOMICIDE**

20
21 **A.** A person did some act intended to cause the death of a person that went beyond just
22 thinking or talking about it; or acted with a premeditated design to kill a person; and the act
23 would have resulted in the death of a person except that someone prevented the killing of a
24 person or failed to do so shall be guilty of a crime of Attempted Homicide, that is punishable by
25 up to three (3) years of imprisonment and up to \$5,000.00 in fines.

26
27 **B.** A person intentionally committed an act that would have resulted in the death of a person,
28 except that someone prevented the killing of a person or a person failed to do so; and the act was
29 imminently dangerous to another and demonstrating a depraved mind without regard for human
30 life shall be guilty of a crime of Attempted Homicide, that is punishable by up to three (3) years
31 of imprisonment and up to \$5,000.00 in fines.

32
33 **1.** It is not necessary for the Tribe to prove a person had intent to cause death.

34
35 **2. Definitions.** “Imminently dangerous to another and demonstrating a depraved
36 mind” means an act or series of acts that:

1
2 **a.** a person of ordinary judgment would know is reasonably certain to kill or
3 do serious bodily injury to another;
4

5 **b.** is done from ill will, hatred, spite, or an evil intent; and
6

7 **c.** is of such a nature that the act itself indicates an indifference to human
8 life.
9

10 **C. Defense.** It is a defense to an Attempt to Commit Murder, if a person abandoned the
11 attempt to commit the crime or otherwise prevented its commission under circumstances
12 indicating a complete and voluntary renunciation of his or her criminal purpose.
13
14

15 **SECTION VII. DOMESTIC VIOLENCE AND SEX OFFENSES**

16

17 **A. Domestic Violence Crimes.** See Domestic Violence Statute, WOS #2015-018; WOTCL
18 9.701.
19

20 **B. Sex Offenses.** See WOTCL 9.210(A)-(H).
21
22

23 **SECTION VIII. ASSAULT and BATTERY**

24

25 **A. Aggravated Assault.**
26

27 A person intentionally and unlawfully threatened to do violence to the victim either by verbal or
28 physical conduct; at the time, a person appeared to have the ability to carry out the threat; a
29 person had a well-founded fear that the violence was about to take place; and the assault was
30 made using a deadly weapon or with the intent to commit a crime upon a person shall be guilty
31 of a crime of Aggravated Assault, which is punishable by up to one (1) year of imprisonment and
32 up to \$5,000.00 in fines and is a misdemeanor under this Statute.
33

34 **1.** It is not necessary for the Tribe to prove that a person had intent to kill.
35

1 **2. Definition.** “Deadly weapon” means any weapon that is used or threatened to be
2 used in a way that is likely to produce death or great bodily harm.
3

4 **B. Household Assault**
5

6 A person intentionally and unlawfully threatened to do violence to a person who is a Family
7 member or a Household member by verbal or physical conduct; at the time, a person appeared to
8 have the ability to carry out the threat; and a person had a well-founded fear that the violence
9 was about to take place shall be guilty of a crime of Household Assault, which is punishable by
10 up to two (2) years of imprisonment and up to \$5,000.00 in fines and is a felony under this
11 Statute.
12

13 **1. “Family member and Household member”** means any adult or minor child(ren)
14 who reside in the household or who are persons related by blood, adoption or marriage.
15

16 **C. Vulnerable Person Assault**
17

18 A person intentionally and unlawfully threatened to do violence to a Vulnerable person either by
19 verbal or physical conduct; at the time, a person appeared to have the ability to carry out the
20 threat; and a person had a well-founded fear that the violence was about to take place shall be
21 guilty of a crime of Vulnerable Person Assault, which is punishable by up to two (2) years of
22 imprisonment and up to \$5,000.00 in fines and is a felony under this Statute.
23

24 **1. “Vulnerable Elder or Adult”** means:
25

26 **a.**An Elder who is fifty-five (55) years old or older or an adult who is
27 eighteen (18) years old or older and is unable to protect themselves from abuse,
28 neglect or exploitation due to mental incompetency or physical disability.
29

30 **b.**A person, that the perpetrator knew or should have known, was
31 particularly vulnerable or incapable of resistance.
32

33 **c.**A person who was pregnant and the perpetrator knew of the pregnancy.
34

35 **D. Assault.**
36

1 A person intentionally and unlawfully threatened to do violence to a person either by verbal or
2 physical conduct; at the time, a person appeared to have the ability to carry out the threat; and a
3 person had a well-founded fear that the violence was about to take place shall be guilty of a
4 crime of Assault, which is punishable by up to one (1) year of imprisonment and up to \$5,000.00
5 in fines and is a misdemeanor under this Statute.

6
7 **E. Aggravated Battery.**
8

9 A person intentionally touched, struck, or caused bodily harm to a person; intentionally or
10 knowingly caused a person great bodily harm, permanent disability, or permanent disfigurement;
11 and used a deadly weapon shall be guilty of a crime of Aggravated Battery, which is punishable
12 by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under
13 this Statute.

14
15 **1. Definition.** “Deadly weapon” means any weapon that is used or threatened to be
16 used in a way that is likely to produce death or great bodily harm.

17
18 **F. Battery.**
19

20 A person intentionally touched, stuck, or caused bodily harm to a person; a person’s actions were
21 done against a person’s will; and a person intentionally caused bodily harm to a person shall be
22 guilty of a crime of Battery, which is punishable by up to one (1) year of imprisonment and up to
23 \$5,000.00 in fines and is a misdemeanor under this Statute.

24
25 **1.** It is not necessary for a person to cause substantial harm to a person, but only that
26 a person’s actions caused some harm.

27
28
29 **SECTION IX. STALKING**
30

31 **A. Stalking.**
32

33 A person’s conduct involving repeated or continuing harassment or cyber-stalking of another
34 individual that would cause a reasonable person to feel terrorized, frightened, intimidated,
35 threatened, harassed, or molested and that actually causes a person to feel terrorized, frightened,
36 intimidated, threatened, harassed, or molested shall be guilty of a crime of Stalking, which is

1 punishable by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a
2 misdemeanor under this Statute.

3
4 **1. Definitions.**

5
6 **a.** “Harass” means to engage in a course of conduct directed at a specific
7 person that causes substantial emotional distress in that person and serves no
8 legitimate purpose.

9
10 **b.** “Cyber-stalking” means to engage in a course of conduct to communicate
11 words, images, or language by or through electronic means directed at a specific
12 person, causing substantial emotional distress to that person and serving no
13 legitimate purpose.

14
15 **B. Aggravated Stalking.**

16
17 A person willfully, maliciously, and repeatedly followed, harassed or cyber-stalked a person; and
18 a person made a credible threat with the intent to place a person in reasonable fear of death or
19 bodily injury to himself or herself or a person’s child, sibling, spouse, parent or dependent shall
20 be guilty of a crime of Aggravated Stalking, which is punishable by up to one (1) year of
21 imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.

22
23 **1. Definitions.**

24
25 **a.** “Harass” means to engage in a course of conduct directed at a specific
26 person that causes substantial emotional distress in such person and serves no
27 legitimate purpose.

28
29 **b.** “Cyber-stalk” means to engage in a course of conduct to communicate
30 words, images or language by or through electronic means directed at a specific
31 person, causing substantial emotional distress to that person and serving no
32 legitimate purpose.

33
34 **c.** “Credible threat” means a threat made with the intent to cause the person
35 who is the target of the threat to reasonably fear for his or her safety. The threat
36 must be directed at causing bodily injury or death to a person.

1
2
3 **SECTION X. KIDNAPPING and FALSE IMPRISONMENT**
4

5 **A. Kidnapping.**
6

7 A person confined or abducted a person against his or her will by force or threat; and had no
8 lawful authority; and acted with intent to hold for ransom, reward, shield, or hostage; or commit
9 or facilitate commission of another crime; or inflict bodily harm upon or to terrorize a person or
10 another person; or interfere with the performance of any governmental or political function shall
11 be guilty of a crime of Kidnapping, which is punishable by up to three (3) years of imprisonment
12 and up to \$15,000.00 in fines and is a felony under this Statute.
13 .
14

15 **1. The confinement or abduction must not:**
16

17 **a.** Be slight, inconsequential, or incidental to another crime;
18

19 **b.** Be of the kind inherent in the nature of another crime; or
20

21 **c.** Have some significance independent of another crime in that it makes the
22 other crime substantially easier to commit or substantially lessens the risk of
23 detection.
24

25 **2. Confinement of a child under the age of thirteen is against the child's will if the**
26 **confinement is without the consent of the child's parent or legal guardian.**
27

28 **B. False Imprisonment.**
29

30 A person confined, abducted or imprisoned a person against his or her will by force or threat; and
31 a person had no lawful authority shall be guilty of a crime of False Imprisonment, which is
32 punishable by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a
33 misdemeanor under this Statute.
34

35 **1. Confinement of a child under the age of thirteen is against the child's will if the**
36 **confinement is without the consent of the child's parent or legal guardian.**

1
2
3 **SECTION XI. WEAPONS and EXPLOSIVES**
4

5 **A. Carrying a Deadly Weapon without a License.**
6

7 A person was carrying a deadly weapon; and did not have a license issued by either the Little
8 Traverse Bay Bands of Odawa Indians or the State of Michigan shall be guilty of a crime of
9 Carrying a Deadly Weapon without a License, which is punishable by up to one hundred and
10 eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
11 Statute.
12

13 **B. Unlawful Use of a Weapon.**
14

15 A person discharged a firearm in the proximity of a building or vehicle so as to knowingly or
16 recklessly endanger a person or property; or carried a firearm while intoxicated; or knowingly or
17 recklessly handled or used a firearm or other weapon in a way that endangered the safety of
18 another; or carried a firearm or other weapon with unlawful intent shall be guilty of a crime of
19 Unlawful Use of a Weapon, which is punishable by up to one hundred and eighty (180) days of
20 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
21

22 **1. Definition.** “Intoxicated” means being under the influence of alcohol or other
23 controlled substance such that one’s normal faculties are impaired.
24

25 **C. Dangerous Use of Explosives.**
26

27 A person either intended to injure, intimidate or terrify another or damage another’s property,
28 and maliciously exploded or attempted to explode the explosive; or failed to use reasonable care
29 in the placement or manner of exploding or attempting to explode the explosive, and that conduct
30 resulted in an injury to another or to the property of another shall be guilty of a crime of
31 Dangerous Use of Explosives, which is punishable by up to one hundred and eighty (180) days
32 of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
33

34 **D. False Reports of Explosive.**
35

1 A person made a false report concerning the placing or planting of an alleged explosive to the
2 person receiving the report; a person knew the report was false; and the report was made with
3 intent to deceive, mislead or otherwise misinform the person receiving the report shall be guilty
4 of a crime of False Reports of Explosive, which is punishable by up to one hundred and eighty
5 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
6 Statute.
7
8

9 **SECTION XII. ARSON**

11 **A. Arson.**

13 A person damaged or caused to be damaged a structure by fire or explosion; and did so willfully
14 and unlawfully or did so while engaged in the commission of another crime shall be guilty of a
15 crime of Arson, which is punishable by up to one (1) year of imprisonment and up to \$5,000.00
16 in fines and is a misdemeanor under this Statute.
17

18 **B. Dangerous Use of a Fire Bomb.**

19
20 A person manufactured, possessed, transported, disposed of, or transferred to another person a
21 fire bomb; and at the time, a person intended that the fire bomb would be willfully and
22 unlawfully used to damage any structure or property by fire or explosion shall be guilty of a
23 crime of Dangerous Use of a Fire Bomb, which is punishable by up to one hundred and eighty
24 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
25 Statute.
26

27 **1. Definition.** "Fire bomb" means a container holding flammable or combustible
28 liquid, or any incendiary chemical mixture or compound, having a device capable of
29 being ignited; but does not include devices that are commercially manufactured for the
30 purpose of illumination, heating, or cooking.
31
32

33 **SECTION XIII. DESTRUCTION or DAMAGE OF PROPERTY**

35 **A. Destruction of Property.**

1 A person injured or damaged real or personal property; the property injured or damaged did not
2 belong to a person; and the injury or damage was done willfully and maliciously shall be guilty
3 of a crime of Destruction of Property, which is punishable by up to one hundred and eighty (180)
4 days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

5
6 **1. Definition.** “Maliciously” means wrongfully, intentionally, without legal
7 justification or excuse, and with the knowledge that injury or damage will or may be
8 caused to another person or the property of another person.

9
10 **B. Damage of Property (Vandalism).**

11
12 A person either intentionally or recklessly defaced or damaged the personal or real property of
13 another; or intentionally or recklessly defaced or damaged the real property of the Little Traverse
14 Bay Bands of Odawa Indians shall be guilty of a crime of Damage of Property, which is
15 punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in
16 fines and is a misdemeanor under this Statute.

17
18
19 **SECTION XIV. ETHNIC INTIMIDATION**

20
21 A person maliciously, and with specific intent to intimidate or harass another person because of
22 that person's race, color, religion, gender, or national origin, does any of the following shall be
23 guilty of a crime of Ethnic Intimidation, which is punishable by up to two (2) years of
24 imprisonment and up to \$5,000.00 in fines and is a felony under this Statute:

- 25
26 **1.** Causes physical contact with another person.
27
28 **2.** Damages, destroys, or defaces any real or personal property of another person.
29
30 **3.** Threatens, by word or act, to do an act described in subdivision (1) or (2), if there
31 is reasonable cause to believe that an act described in subdivision (1) or (2) will occur.
32
33

34 **SECTION XV. COMPUTER CRIMES**

35
36 **A. Computer Fraud.**

1
2 A person used a computer or computer network without authority, and obtained property or
3 services by false pretenses; converted the property of another; or embezzled or committed
4 larceny shall be guilty of a crime of Computer Fraud, which is punishable by up to one (1) year
5 of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.
6

7 **B. Transmission of Unsolicited Commercial Electronic Mail (SPAM).**
8

9 A person used a computer or computer network with the intent to falsify or forge electronic mail
10 transmission information or other routing information in connection with the transmission of
11 spam through or into the computer network of an electronic mail service provider or its
12 subscribers; or knowingly sold, gave or otherwise distributed or possessed with the intent to sell,
13 give, or distribute software that is primarily designed or produced for the purpose of facilitating
14 or enabling the falsification of the transmission information or other routing information of
15 spam; or has only limited commercially significant purpose or use other than to facilitate or
16 enable the falsification of the transmission information or other routing information of spam; or
17 is marketed by a person acting alone or with another for use in facilitating or enabling the
18 falsification of the transmission information or other routing information of spam shall be guilty
19 of a crime of Transmission of Unsolicited Commercial Electronic Mail (SPAM), which is
20 punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in
21 fines and is a misdemeanor under this Statute.
22

23 **1. Definitions.**
24

25 **a.** “Electronic mail service provider” means any person who:
26

27 **i.** Is an intermediary in sending or receiving electronic mail; and
28

29 **ii.** Provides to end-users of electronic mail services the ability to send
30 or receive electronic mail.
31

32 **b.** “Spam” means unsolicited commercial electronic mail. Spam does not
33 include commercial electronic mail transmitted to a recipient with whom
34 the sender has an existing business or personal relationship.
35

36 **C. Computer Trespass.**

1
2 A person had malicious intent to temporarily or permanently remove, halt, or otherwise disable
3 any computer data, programs or software from a computer or computer network; or cause a
4 computer to malfunction, regardless of how long the malfunction persisted; or alter, disable, or
5 erase any computer data, programs, or software; or effect the creation or alteration of a financial
6 instrument or of an electronic transfer of funds; or use a computer or computer network to cause
7 physical injury to the property of another; or use a computer or computer network to make or
8 cause to be made an unauthorized copy, in any form, including any printed or electronic form of
9 computer data, programs, or software residing in, communicated by, or produced by a computer
10 or computer network; or install or cause to be installed, or collect information through, computer
11 software that records all or a majority of the keystrokes made on the computer of another without
12 the computer owner's authorization; or install or cause to be installed on the computer of
13 another, computer software for the purpose of taking control of that computer so that can cause
14 damage to another computer; or disabling or disrupting the ability of the computer to share or
15 transmit instructions or data to other computers or to any related computer equipment or devices,
16 including printers, scanners, or fax machines shall be guilty of a crime of Computer Trespass,
17 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
18 \$2,000.00 in fines and is a misdemeanor under this Statute.
19

20 **1. Definitions.**
21

22 **a.** "Computer data" means any representation of information, knowledge,
23 facts, concepts, or instructions that are being prepared or have been prepared and
24 is intended to be processed, is being processed, or has been processed in a
25 computer or computer network. Computer data may be in any form, whether
26 readable only by a computer or only by a human or either.
27

28 **b.** "Computer program" means an ordered set of data representing coded
29 instructions or statements that, when executed by a computer, causes the
30 computer to perform one or more computer operations.
31

32 **c.** "Financial instrument" means any instrument relating to financial
33 information or records including, but not limited to, any check, draft, warrant,
34 money order, note, certificate of deposit, letter of credit, bill of exchange, credit or
35 debit card, transaction authorization mechanism, marketable security, or any
36 computerized representation thereof.

1
2 **D. Destruction of Computer Equipment.**
3

4 A person intentionally or recklessly tampered with, took, transferred, concealed, altered, or
5 otherwise damaged or destroyed any equipment used in a computer or computer network; and
6 did so without authorization; and knew that he or she lacked authorization; and the result of the
7 damage was \$1,000.00 or greater, shall be guilty of a crime Destruction of Computer Equipment,
8 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
9 \$2,000.00 in fines and is a misdemeanor under this Statute.
10

11 **E. Theft of Computer Services.**
12

13 A person accessed or caused to be accessed or otherwise used or caused to be used a computer
14 system; and had the intent to obtain unauthorized computer services, computer software or data
15 shall be guilty of a crime of Theft of Computer Services, which is punishable by up to one
16 hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
17 misdemeanor under this Statute.
18

19 **1. Definitions.**
20

21 **a.** “Computer data” means any representation of information, knowledge,
22 facts, concepts, or instructions that are being prepared or has been prepared and is
23 intended to be processed, is being processed, or has been processed in a computer
24 or computer network. Computer data may be in any form, whether readable only
25 by a computer, only by a human, or by either.
26

27 **b.** “Computer system” means a computer, its software, related equipment and
28 communications facilities, if any, and includes computer networks.
29

30 **F. Unauthorized Access of Computer.**
31

32 A person knew he or she was not authorized to access the computer; and accessed or caused a
33 computer or computer system to be accessed shall be guilty of a crime of Unauthorized Access
34 of Computer, which is punishable by up to one hundred and eighty (180) days of imprisonment
35 and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
36

1 **1. Definition.** “Computer system” means a computer, its software, related
2 equipment and communications facilities, if any, and includes computer networks.
3

4 **G. Crime against Computer Users.**
5

6 A person willfully, knowingly, and without authorization, disrupted, denied or caused the denial
7 of computer system service to an authorized user, which in whole or in part, is owned by, under
8 contract to, operated for, on behalf of or in conjunction with another; or introduced any computer
9 contaminant into any computer, computer system, or computer network that prevented an
10 authorized user’s access; or caused to be accessed any computer, computer system, or computer
11 network for the purpose of devising or executing any scheme or artifice to defraud or obtain
12 property; or interrupting or impairing a governmental operation, public communication,
13 transportation or supply of water, gas, or other public service; or modifying equipment or
14 supplies used or intended to be used in a computer, computer system, or computer network shall
15 be guilty of a crime of Crime against Computer Users, which is punishable by up to one hundred
16 and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under
17 this Statute.
18

19 **1.** This crime does not apply to any person who accesses his or her employer’s
20 computer system, computer network, computer program, or computer data when acting
21 within the scope of his or her lawful employment.
22

23 **2. Definitions.**
24

25 **a.** “Access” means to approach, instruct, communicate with, store data in,
26 retrieve data from, or otherwise make use of any resources of a computer,
27 computer system, or computer network.
28

29 **b.** “Computer contaminant” means any set of computer instructions designed
30 to modify, damage, destroy, record, or transmit information within a computer,
31 computer system, or computer network without the intent or permission of the
32 owner of the information. This includes, but is not limited to, viruses or worms
33 that are self-replicating or self-propagating, and are designed to contaminate other
34 computer programs or computer data, consumer computer resources, or in some
35 other way usurp the normal operation of the computer, computer system, or
36 computer network.

1
2
3 **SECTION XVI. BURGLARY and TRESPASS**
4

5 **A. Burglary.**
6

7 A person entered a structure or conveyance, owned by or in the possession of another; and upon
8 entering, had the intent to commit another crime in the structure or conveyance; and was not
9 licensed or invited to enter the structure or conveyance; or if a public area, the premises were not
10 open at the time of entering shall be guilty of a crime of Burglary, which is punishable by up to
11 one (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this
12 Statute.
13

14 **1.** If the license or invitation to enter was obtained by a person's trick, fraud, or
15 deceit, then the license or invitation was not valid.
16

17 **2.** If a person entered premises that were open to the public, but then entered an area
18 of the premises that a person knew was not open to the public, it is a burglary so long as a
19 person had the intent to commit another crime in that non-public area.
20

21 **3.** It is not necessary for the Tribe to prove that a person's entire body entered the
22 structure or conveyance, it is sufficient that a person extend any party of his or her body
23 into it.
24

25 **4.** The crime intended cannot be a trespass.
26

27 **B. Possession of Burglary Tools.**
28

29 A person intended to commit a burglary or a trespass; and had in his or her possession a tool, a
30 machine, or an implement that he or she intended to use, or allow to be used, in the commission
31 of the burglary or trespass; and did some overt act toward the commission of a burglary or
32 trespass shall be guilty of a crime of Possess of Burglary Tools, which is punishable by up to one
33 hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
34 misdemeanor under this Statute.
35

36 **C. Trespass in Structure or Conveyance.**

1
2 A person willfully entered or remained in a structure or conveyance; and the structure or
3 conveyance was in the lawful possession of another person; and a person's entering or remaining
4 in the structure or conveyance was without authorization, license, or invitation by any person
5 authorized to give that permission, or a person had been authorized, licensed, or invited to enter
6 or remain in a structure or conveyance and was warned to depart by the person authorized and
7 refused shall be guilty of a crime of Trespass in Structure or Conveyance, which is punishable by
8 up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
9 misdemeanor under this Statute.

10
11 **1.** Authority to enter or remain in a structure or conveyance does not need to be
12 given in express words. It may be implied from the circumstances that it is lawful to enter
13 or remain in a structure or conveyance of another if, under all the circumstances, a
14 reasonable person would believe that he or she had the permission of the owner or
15 occupant.

16
17 **2. Definitions.** "Person authorized" means an owner or lessee, or his or her agent, or
18 any law enforcement officer whose department has received written authorization from
19 the owner or lessee, or his or her agent, to communicate an order to depart the property in
20 case of a threat to public safety or welfare.

21 22 23 **SECTION XVII. THEFT and DEALINGS IN STOLEN PROPERTY**

24 25 **A. Theft.**

26
27 A person knowingly and unlawfully obtained or used, attempted to obtain or to use the property
28 of another; and did so with the intent to either temporarily or permanently, deprive another
29 person of his or her right to the property or any benefit from it; or appropriate the property of
30 another to his or her own use or to the use of any person not entitled to it shall be guilty of a
31 crime of Theft, which is punishable by up to one (1) year of imprisonment and up to \$5,000.00 in
32 fines and is a misdemeanor under this Statute.

33
34 **1. Definitions.** "Obtains or uses" means any manner of:

35
36 **a.** Taking or exercising control over property;

- b. Making any unauthorized use, disposition, or transfer of property;
- c. Obtaining property by fraud, willful misrepresentation of a future act, or false promise; or
- d. Conduct previously known as stealing, larceny, purloining, abstracting, embezzlement, misapplication, misappropriation, conversion; or obtaining money or property by false pretenses, fraud, deception; or other conduct similar in nature.

B. Theft over Five-Thousand Dollars (\$5000.00).

A person knowingly and unlawfully obtained or used, attempted to obtain or to use the property of another; and did so with the intent to either temporarily or permanently, deprive another person of his or her right to the property or any benefit from it; or appropriate the property of another to his or her own use or to the use of any person not entitled to it and the amount of value is over five-thousand dollars (\$5000.00) shall be guilty of a crime of Theft over Five-Thousand Dollars, which is punishable by up to three (3) years of imprisonment and up to \$15,000.00 in fines and is a felony under this Statute.

2. Definitions. “Obtains or uses” means any manner of:

- a. Taking or exercising control over property;
- b. Making any unauthorized use, disposition, or transfer of property;
- c. Obtaining property by fraud, willful misrepresentation of a future act, or false promise; or
- d. Conduct previously known as stealing, larceny, purloining, abstracting, embezzlement, misapplication, misappropriation, conversion; or obtaining money or property by false pretenses, fraud, deception; or other conduct similar in nature.

C. Automobile Theft.

1 A person knowingly and unlawfully obtained or used, attempted to obtain or to use an
2 automobile of another; and did so with the intent to either temporarily or permanently, deprive
3 another person of his or her right to the automobile or any benefit from it; or appropriate the
4 automobile of another to his or her own use or to the use of any person not entitled to it shall be
5 guilty of a crime of Automobile Theft, which is punishable by up to three (3) years of
6 imprisonment and up to \$15,000.00 in fines and is a felony under this Statute.

7
8 **D. Theft from Trust Relationship; Family or Household, Employee or Vulnerable**
9 **Elder or Person**

10
11 A person, to whom it has been entrusted by a Family or Household member, employer or a
12 Vulnerable Elder or person, knowingly and unlawfully obtained or used, attempted to obtain or
13 to use the property of a person; and did so with the intent to either temporarily or permanently,
14 deprive another person of his or her right to the property or any benefit from it; or appropriate the
15 property of another to his or her own use or to the use of any person not entitled to it and the
16 amount of value is over five-thousand dollars (\$5000.00) shall be guilty of a crime of Theft from
17 Trust Relationship, which is punishable by up to three (3) years of imprisonment and up to
18 \$15,000.00 in fines and is a felony under this Statute.

19
20 **1. “Family member and Household member”** means any adult or minor child(ren)
21 who reside in the household or who are persons related by blood, adoption or marriage.

22
23 **2. “Vulnerable Elder or Adult”** means:

24
25 **a.** An Elder who is fifty-five (55) years old or older or an adult who is
26 eighteen (18) years old or older and is unable to protect themselves from abuse,
27 neglect or exploitation due to mental incompetency or physical disability.

28
29 **E. Fencing.**

30
31 A person trafficked in or attempted to traffic in, or receives stolen property; and knew or should
32 have known that the property was stolen shall be guilty of a crime of Fencing, which is
33 punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in
34 fines and is a misdemeanor under this Statute.

1 **1.** An inference that a person knew or should have known that the property was
2 stolen can be made under the following circumstances:

3
4 **a.** Proof of possession of recently stolen property without a satisfactory
5 explanation;

6
7 **b.** Proof of the purchase or sale of stolen property by a dealer in property
8 outside of the regular course of business, without the usual indicia of ownership,
9 and without a satisfactory explanation;

10
11 **c.** Proof that a dealer who regularly deals in used property possesses stolen
12 property that has a name and phone number of another person, not the offeror,
13 conspicuously displayed; or

14
15 **d.** Proof that a person was in possession of a stolen motor vehicle when the
16 ignition mechanism was bypassed or the steering wheel locking mechanism was
17 broken or bypassed, and without a satisfactory explanation.

18
19 **2. Definitions.**

20
21 **a.** “Stolen property” means property that has been the subject of any
22 criminally wrongful taking or if the property has not been stolen, that it was
23 offered for sale to a person as stolen property.

24
25 **b.** “Traffic” means to sell, transfer, distribute, dispense or otherwise dispose
26 of property; and to buy, receive, possess, obtain control of or use property with
27 the intent to sell, transfer, distribute, dispense or otherwise dispose of that
28 property.

29
30 **F. Retail Theft.**

31
32 A person knowingly took possession of or carried away merchandise; altered or removed a label
33 or price tag from merchandise; transferred merchandise from one container to another; or
34 removed a shopping cart from a merchant’s premises; and intended to deprive the merchant of
35 possession, use, benefit, or full retail value of the merchandise or shopping cart shall be guilty of

1 a crime of Retail Theft, which is punishable by up to one hundred and eighty (180) days of
2 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

3
4 **1. Definitions.**

5
6 **a.** “Merchandise” means any personal property capable of manual delivery,
7 displayed, held or offered for retail sale by a merchant.

8
9 **b.** “Merchant” means an owner, operator, consignee, employee, lessee or
10 officer of any premises or apparatus used for retail purchase or sale of
11 merchandise.

12
13 **c.** “Value of merchandise” means the sale price of the merchandise at the
14 time it was stolen or otherwise removed depriving the owner of his lawful right to
15 ownership and sale of the item.

16
17 **G. Larceny of a Safe.**

18
19 A person, with intent to commit the crime of larceny of a bank, safe, vault or other depository of
20 money shall be guilty of a crime of Larceny of a Safe, which is punishable by up to one (1) year
21 of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.

22
23
24 **SECTION XVIII. CRIMES OF ROBBERY**

25
26 **A. Robbery.**

27
28 A person took money or property from another person or custody of another person; and the
29 taking was done by force, violence, assault, or otherwise putting the person in fear; and the
30 property taken was of some value; and the taking was done with the intent to permanently or
31 temporarily deprive another person of his or her right to the property or any benefit from it; or
32 appropriate the property of another to his or her own use or to the use of any person not entitled
33 to it shall be guilty of a crime of Robbery, which is punishable by up to one (1) year of
34 imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.

1 **1.** It is not necessary for the Tribe to prove that the person robbed was the actual
2 owner of the property. It is sufficient if the person robbed had custody of the property at
3 the time of the robbery.
4

5 **2.** It is not necessary that a person of the robbery be aware or conscious of the
6 robbery. It is sufficient if a person causes a person to be unaware or unconscious for the
7 purpose of taking his or her property.
8

9 **3. Definitions.**
10

11 **a.** “Force” means some use of physical or verbal threat to overcome any
12 resistance by a person.
13

14 **b.** “Taking” means removing property from a person’s possession by
15 physical force or verbal threat of force.
16

17 **B. Robbery Over Five-Thousand Dollars (\$5000.00).**
18

19 A person took money or property from another person or custody of another person; and the
20 taking was done by force, violence, assault, or otherwise putting the person in fear; and the
21 property taken was of some value; and the taking was done with the intent to permanently or
22 temporarily deprive another person of his or her right to the property or any benefit from it; or
23 appropriate the property of another to his or her own use or to the use of any person not entitled
24 to it and the amount of value is over five-thousand dollars (\$5000.00) shall be guilty of a crime
25 of Robbery Over Five-Thousand Dollars, which is punishable by up to three (3) years of
26 imprisonment and up to \$15,000.00 in fines and is a felony under this Statute.
27

28 **4.** It is not necessary for the Tribe to prove that the person robbed was the actual
29 owner of the property. It is sufficient if the person robbed had custody of the property at
30 the time of the robbery.
31

32 **5.** It is not necessary that a person of the robbery be aware or conscious of the
33 robbery. It is sufficient if a person causes a person to be unaware or unconscious for the
34 purpose of taking his or her property.
35

36 **6. Definitions.**

1
2 **a.** “Force” means some use of physical or verbal threat to overcome any
3 resistance by a person.
4

5 **b.** “Taking” means removing property from a person’s possession by
6 physical force or verbal threat of force.
7

8 **C. Carjacking.**
9

10 A person took a motor vehicle from another person; and the taking was done by force, violence,
11 assault or otherwise putting the person in fear; and had the intent to temporarily or permanently
12 deprive another person of his or her right to the motor vehicle or any benefit from it; or
13 appropriate the motor vehicle to his or her own use or to the use of any person not entitled to it
14 shall be guilty of a crime of Carjacking, which is punishable by up to one (1) year of
15 imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.
16

17 **1.** It is not necessary that a person be the actual owner of the motor vehicle. It is
18 sufficient if a person has custody of the motor vehicle at the time of the carjacking.
19

20 **D. Home-Invasion Robbery.**
21

22 A person entered the dwelling of another; and intended to commit a robbery at the time of
23 entering the dwelling; and committed a robbery while inside the dwelling shall be guilty of a
24 crime of Home-Invasion Robbery, which is punishable by up to one (1) year of imprisonment
25 and up to \$5,000.00 in fines and is a misdemeanor under this Statute.
26

27 **1. Definition.** “Dwelling” means a building or conveyance of any kind that has a
28 roof over it and is designed to be occupied by people lodging within it at night, together
29 with the space of ground and outbuildings immediately surrounding it.
30

31 **E. Robbery by Sudden Snatching.**
32

33 A person took money or property from the person of a person; and the property taken was of
34 some value; and had the intent to permanently or temporarily deprive the owner of the property;
35 and was aware or became aware of the taking shall be guilty of a crime of Robbery by Sudden

1 Snatching, which is punishable by up to one hundred and eighty (180) days of imprisonment and
2 up to \$2,000.00 in fines and is a misdemeanor under this Statute.

3
4 **1.** It is not necessary for the Tribe to prove that a person used any amount of force
5 beyond the effort necessary to obtain possession of the money or property, that there was
6 any resistance offered by a person, or that there was any injury to a person.

7
8 **2.** It is not necessary that a person be the actual owner of the property. It is sufficient
9 that a person was in possession of the property at the time of the crime.

10
11
12 **SECTION XIX. FORGERY and NON-SUFFICIENT FUND CHECKS**

13
14 **A. Forgery.**

15
16 A person falsely made, altered, forged, or counterfeited a document; and intended to injure or
17 defraud some person or entity shall be guilty of a crime of Forgery, which is punishable by up to
18 one (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this
19 Statute.

20
21 **1.** It is not necessary for the Tribe to prove that a person intended to make some
22 profit. It is sufficient that a person intended to injure or defraud any person.

23
24 **B. Uttering a Forgery.**

25
26 A person passed or offered to pass as true some document; and knew the documents to be false,
27 altered, forged, or counterfeited; and intended to injure or defraud some person or entity shall be
28 guilty of a crime of Uttering a Forgery, which is punishable by up to one (1) year of
29 imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.

30
31 **C. Obtaining Property with Non-Sufficient Fund Check.**

32
33 A person drew, made, uttered, issued, or delivered a check; and obtained services, goods, or any
34 other thing of value; and knew at the time of writing the check that there was not sufficient
35 money on deposit or any arrangement with the bank to pay the check; and the check was for
36 \$150.00 or more shall be guilty of a crime of Obtaining Property with Non-Sufficient Fund

1 Check, which is punishable by up to one hundred and eighty (180) days of imprisonment and up
2 to \$2,000.00 in fines and is a misdemeanor under this Statute.

3
4 **1. Defenses.** It is a defense to the crime of Obtaining Property with a Worthless
5 Check if either of the following circumstances existed:

6
7 **a.** The payee knew a person did not have sufficient funds at the bank to pay
8 the check; or

9
10 **b.** The payee had good reason to believe a person did not have sufficient
11 funds at the bank to pay the check.

12
13 **D. Obtaining a Signature by Deception.**

14
15 A person obtained the signature of another person on a written instrument; and knowingly
16 misrepresented or omitted any material fact relevant to the instrument or transaction; and
17 had the intent to defraud shall be guilty of a crime of Obtaining a Signature by Deception, which
18 is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00
19 in fines and is a misdemeanor under this Statute.

20
21
22 **SECTION XX. PERJURY and FALSE INFORMATION**

23
24 **A. Perjury.**

25
26 A person took an oath or affirmation that legally required a person to speak the truth; and
27 knowingly made a false statement shall be guilty of a crime of Perjury, which is punishable by
28 up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
29 misdemeanor under this Statute.

30
31 **B. False Information to Law Enforcement.**

32
33 A law enforcement officer was conducting an investigation; and a person knew the person
34 conducting the investigation was a law enforcement officer; and knowingly and willfully gave
35 false information to the law enforcement officer; and intended to mislead the law enforcement
36 officer or impede the investigation shall be guilty of a crime of False Information to Law

Enforcement, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

SECTION XXI. BRIBERY and RELATED CRIMES

A. Bribery of an Official.

A person bribed was an official; and a person gave, offered, or promised the official something of value, benefit, or advantage to the official not authorized by law; and the gift, offer or promise was made for the purpose of corruptly influencing the official in the performance of some act or omission that they believed to be within the official's discretion, in violation of the official's public duty or in performance of the official's public duty; or the official represented as being within the official's discretion, in violation of the official's public duty or in performance of the official's public duty shall be guilty of a crime of Bribery of an Official, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

1. Definitions.

a. "Corruptly" means acting knowingly and dishonestly for a wrongful purpose.

b. "Official" means any tribal official, judge, or employee.

B. Bribery by an Official.

A person was an official; and a person requested, solicited, accepted, or agreed to accept something of value, benefit or advantage to the official not authorized by law; and the request, solicitation, acceptance, or agreement to accept was made with intent of corruptly being influenced in the performance of some act or omission that the person making the bribe believed to be within the official's discretion, in violation of the official's public duty, or in performance of the official's public duty; or represented as being within his or her official discretion, in violation or his or her public duty, or in performance of his or her public duty shall be guilty of a crime of Bribery by an Official, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

1
2 **1. Definitions.**

3
4 **a.** “Corruptly” means acting knowingly and dishonestly for a wrongful
5 purpose.

6
7 **b.** “Official” means any tribal official, judge or employee.
8

9 **C. Improper Influence of an Official.**

10
11 A person threatened harm to any tribal official, judge, or employee, and had the intent of
12 influencing that official’s actions shall be guilty of a crime of Improper Influence of an Official,
13 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
14 \$2,000.00 in fines and is a misdemeanor under this Statute.
15

16 **D. Abuse of Office.**

17
18 A person acted or purported to act in an official capacity; and subjected another to arrest,
19 detention, search or seizure without just and lawful cause; or maliciously denied or impeded
20 another in the exercise or enjoyment of any right, privilege, power, or immunity shall be guilty
21 of a crime Abuse of Office, which is punishable by up to one hundred and eighty (180) days of
22 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
23

24 **E. Obstruction of Tribal Administration.**

25
26 A person intentionally or knowingly obstructed, impaired, or hindered any officer of the Little
27 Traverse Bay Bands of Odawa Indians in the lawful exercise of his or her duties; or any duly
28 authorized person serving or attempting to serve or execute process or any rule or order of the
29 court of the Little Traverse Bay Bands of Odawa Indians; or any judge or other court personnel
30 of the Little Traverse Bay Bands of Odawa Indians, in the lawful exercise of his or her duties; or
31 any other law enforcement official in the lawful exercise of his or her duties shall be guilty of a
32 crime Obstruction of Tribal Administration, which is punishable by up to one hundred and eighty
33 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
34 Statute.
35
36

1 **SECTION XXII. FRAUD**

2
3 **A. Welfare Fraud.**

4
5 A person knowingly failed to disclose a material fact by false statement, misrepresentation,
6 impersonation, or other fraudulent means; or knew that fact was used to determine qualifications
7 to receive aid or benefits; and received aid or benefits from Little Traverse Bay Bands of Odawa
8 Indians, a state or federally funded assistance program shall be guilty of a crime of Welfare
9 Fraud, which is punishable by up to one hundred and eighty (180) days of imprisonment and up
10 to \$2,000.00 in fines and is a misdemeanor under this Statute.

11
12 **1. Definition.** “Fraudulent” means the intent or purpose of suppressing the truth or
13 perpetrating a deception.

14
15 **B. Fraudulent Use or Possession of Personal Identification Information.**

16
17 A person willfully and without authorization fraudulently used or possessed with intent to
18 fraudulently use personal identification information of another; and used or possessed the
19 information with consent or authorization shall be guilty of a crime of Fraudulent Use or
20 Possession of Personal Identification Information, which is punishable by up to one hundred and
21 eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
22 Statute.

23
24 **1. Definitions.**

25
26 **a.** “Authorization” means empowerment, permission, or competence to act.

27
28 **b.** “Fraudulently” means intentionally or purposely suppressing the truth or
29 perpetrating a deception.

30
31 **c.** “Personal identification information” means any name or number that may
32 be used to identify a specific individual or that individual’s personal information.
33 Such information includes, but is not limited to the following: mail or electronic
34 mail address; telephone number; social security number; date of birth;
35 government issued driver’s license, identification, or passport number; bank
36 issued information; biometric information; medical records; telecommunication

1 identifying information or access; or any other information that can be used to
2 access a person's financial resources.
3

4 **C. Fraudulent Creation, Use or Possession of Counterfeit Personal Identification**
5 **Information.**
6

7 A person willfully and fraudulently created, used or possessed with intent to use counterfeit or
8 fictitious personal identification information; or the personal identification information
9 concerned a fictitious individual, concerned a real individual who did not consent, or concerned a
10 real individual who unlawfully gave the information to a person; and created, used, or possessed
11 the information with the intent to commit or facilitate the commission of a fraud on another
12 person shall be guilty of a crime of Fraudulent Creation, Use or Possession of Counterfeit
13 Personal Identification Information, which is punishable by up to one hundred and eighty (180)
14 days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
15

16 **D. Criminal Impersonation.**
17

18 A person assumed a false identity with the intent to defraud another; or pretended to be a
19 representative of some person or organization with the intent to defraud shall be guilty of a crime
20 of Criminal Impersonation, which is punishable by up to one hundred and eighty (180) days of
21 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
22

23 **E. False Identification to Procure a Tribal Natural Resource License.**
24

25 A person intentionally presented false identification information; and did so with the purpose of
26 obtaining a natural resource license or permit that a person would not otherwise be entitled to
27 shall be guilty of a crime of False Identification to Procure a Tribal Natural Resource License,
28 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
29 \$2,000.00 in fines and is a misdemeanor under this Statute.
30

31
32 **SECTION XXIII. OBSTRUCTION OF JUSTICE**
33

34 **A. Resisting an Officer with Violence.**
35

1 A person knowingly and willfully resisted, obstructed, or oppose the officer by offering to do or
2 doing violence to the officer; and at the time, the officer was engaged in the execution of legal
3 process or lawful execution of a legal duty; and the officer was a person legally authorized to
4 execute process shall be guilty of a crime of Resisting an Officer with Violence, which is
5 punishable by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a
6 misdemeanor under this Statute.

7
8
9 **B. False Report of Commission of Crime.**

10
11 A person willfully gave, said, or caused to be given or said false information or a report about the
12 alleged commission of a crime under the laws of the Little Traverse Bay Bands of Odawa
13 Indians; and knew the information or report was false because no such crime had actually been
14 committed; and the information or report was given, said or caused to be given or said to a law
15 enforcement officer; and knew or should have known that he or she was giving information to a
16 law enforcement officer shall be guilty of a crime of False Report of Commission of Crime,
17 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
18 \$2,000.00 in fines and is a misdemeanor under this Statute.

19
20 **C. Malicious Criminal Prosecution.**

21
22 A person maliciously caused or attempted to cause a criminal charge to be prosecuted against an
23 innocent person; and knew that the person being prosecuted was innocent shall be guilty of a
24 crime of Malicious Criminal Prosecution, which is punishable by up to one hundred and eighty
25 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
26 Statute.

27
28 **D. Giving False Information Concerning the Commission of a Crime.**

29
30 A person knowingly gave information about the alleged commission of a crime; and knew the
31 information was false; and gave the false information to a law enforcement officer; and knew
32 that the person was a law enforcement officer shall be guilty of a crime of Giving False
33 Information Concerning the Commission of a Crime, which is punishable by up to one hundred
34 and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under
35 this Statute.

E. Giving a False Name or Identification to a Law Enforcement Officer Adversely Affecting Another.

A person was arrested or lawfully detained by a law enforcement officer; and gave a false name or falsely identified himself or herself in some way as another to the law enforcement officer; and the other person was adversely affected by the unlawful use of his or her name or identification shall be guilty of a crime of Giving a False Name or Identification to a Law Enforcement Officer Adversely Affecting Another, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

F. Tampering with a Witness.

G. A person knew that a criminal trial, proceeding, or an investigation by a duly constituted prosecuting authority, law enforcement agency, or legislative committee of the Little Traverse Bay Bands of Odawa Indians was pending or about to be instituted; and attempting to alter or prevent the testimony of a witness shall be guilty of a crime of Tampering with a Witness, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

H. Tampering with or Fabricating Physical Evidence.

A person knew that a criminal trial, proceeding, or an investigation by a duly constituted prosecuting authority, law enforcement agency, or legislative committee of the Little Traverse Bay Bands of Odawa Indians was pending or about to be instituted; and altered, destroyed, concealed, or removed any record, document, or other item with the purpose to impair its verity or availability in the investigation or proceeding; or made, presented, or used any record, document, or other item knowing it to be false shall be guilty of a crime of Tampering with or Fabricating Physical Evidence, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

I. Tampering with a Public Record.

A person intentionally or knowingly and without property authority: and made or completed a written instrument that purported to be a public record or true copy; or altered a written instrument that is a public record or true copy; or presented or used a written instrument that was

1 or purported to be a public record or true copy, knowing that it had been falsely made,
2 completed, or altered with intent that it be taken as genuine; or offered for recording, registration
3 or filing in a tribal office or agency a written statement knowing that it had been falsely made,
4 completed, or altered or that it contained a false state of information; or knowingly destroyed,
5 concealed, removed, or otherwise impaired the availability of any public record shall be guilty of
6 a crime of Tampering with a Public Record, which is punishable by up to one hundred and eighty
7 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
8 Statute.
9

10 **1.** Definition. “Public record” means all official books, papers, written instruments
11 or records created, issued, received or kept by any tribal office, branch or division of the
12 Little Traverse Bay Bands of Odawa Indians.
13

14 **J. Interfering with an Election.**
15

16 A person knowingly attempted to influence the vote of any person, or prevented a person from
17 voting in an election held by the Little Traverse Bay Bands of Odawa Indians through the use or
18 threatened use of force or violence; or attempted to cast more than one vote in an election, or in
19 any way interfered with the collection and counting of ballots shall be guilty of a crime of
20 Interfering with an Election, which is punishable by up to one (1) year of imprisonment and up to
21 \$5,000.00 in fines and is a misdemeanor under this Statute.
22
23

24 **SECTION XXIV. GAMBLING**
25

26 **A. Gambling.**
27

28 A person played or engaged in a game of chance; or risked money or property on the outcome of
29 the game; and expected to gain or lose money or property as a result of the game shall be guilty
30 of a crime of Gambling, which is punishable by up to one hundred and eighty (180) days of
31 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
32

33 **1.** It is not necessary for the Tribe to prove that a person risked his or her own
34 money.
35

1 **2. Exemption.** Establishments or games that are licensed by the Tribe or the State
2 of Michigan.
3

4 **B. Maintaining a Gambling Establishment.**
5

6 A person either in person, by servant, or by agent; or acting as a servant, clerk, agent, or
7 employee of another; or a person had a substantial degree of control over and kept or maintained
8 the place where unlicensed gambling occurred or articles used for gambling purposes; and the
9 place was or the articles were habitually kept or maintained for the purpose of unlicensed
10 gambling shall be guilty of a crime of Maintaining a Gambling Establishment, which is
11 punishable by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a
12 misdemeanor under this Statute.
13

14 **1.** It is not necessary for the Tribe to prove that a person gambled, received any
15 profit from the gambling, or that a person owned or controlled the property.
16

17 **2. Definition.** “Gambling” means an unlicensed game of chance where the
18 participant risks money or property on the outcome of the game with the expectation of
19 gaining or losing money or property.
20

21 **C. Permitting Gambling.**
22

23 A person either in person, by servant, or by agent; or acting as a servant, clerk, agent, or
24 employee; or had direct or indirect charge, control, or management of the place where the
25 unlicensed gambling occurred; and habitually solicited or knowingly permitted unlicensed
26 gambling at that place shall be guilty of a crime of Permitting Gambling, which is punishable by
27 up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this
28 Statute.
29

30 **1.** It is not necessary for the Tribe to prove that a person had sole and exclusive
31 control or management of the place. It is sufficient that the control or management was
32 exercised jointly with others. However, a person must have had sufficient control or
33 management of the place to carry some authority to deny or forbid gambling in the place.
34

1 **2. Definition.** “Gambling” means an unlicensed game of chance where the
2 participant risks money or property on the outcome of the game with the expectation of
3 gaining or losing money or property.
4
5

6 **SECTION XXV. DRUG ABUSE**

7

8 **A. Possession, Use, Sale, Manufacture, or Delivery of a Controlled Substance.**

9

10 A person possessed, used, sold, purchased, manufactured, or delivery of a controlled substance;
11 or possessed with the intent to sell, delivered, or manufacture a controlled substance; and had
12 knowledge of the presence of the controlled substance shall be guilty of a crime of Possession,
13 Use, Sale, Manufacture, or Delivery of a Controlled Substance, which is punishable by up to one
14 hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
15 misdemeanor under this Statute.
16

17 **1. Definitions.**

18

19 **a.** “Controlled Substance” means any substance defined by Federal or Michigan law
20 as a controlled substance.
21

22 **b.** “Drug paraphernalia” means drug paraphernalia means all equipment, products,
23 and materials of any kind which are used, intended for use, or designed for use in
24 planting, propagating, cultivating, growing, harvesting, manufacturing, compounding,
25 converting, producing, processing, preparing, testing, analyzing, packaging, repackaging,
26 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing
27 into the human body a controlled substance.
28

29 **c.** “Deliver” any conveyance of controlled substances from one to another, even if
30 there is no remuneration for the conveyance.
31

32 **d.** “Manufacture” means the production, preparation, packaging, labeling,
33 compounding, cultivating, growing, conversion or processing of a controlled substance,
34 either directly or indirectly. This includes the extraction from substances of natural
35 origin, or independently by means of chemical synthesis, and by a combination of the
36 two.

1
2 **e.** “Possess” means to have actual or constructive personal charge of or to exercise
3 the right of ownership, management, or control over the thing possessed.
4

5 **i.** “Actual possession” means the controlled substance is in the hand
6 of or on the person, in a container in the hand of or on the person, or is so
7 close to be within ready reach and is under the control of the person.
8

9 **ii.** “Constructive possession” means the controlled substance is in a
10 place over which a person has control or in which a person has concealed
11 it.
12

13 **f.** “Sell” means to transfer or deliver something to another person in exchange for
14 money, something of value, or a promise to pay money or give something of value.
15

16 **B. Manufacture, Cultivate, Delivery, Possession with Intent to Deliver, and Sell.**

17 A person manufactured, cultivated, delivered, or possessed with intent to deliver or sold any
18 controlled substances, except Marijuana, shall be guilty of a crime of Manufacture, Cultivate,
19 Delivery, Possession with Intent to Deliver, and Sell, which is punishable by up to three (3) years
20 of imprisonment and up to \$15,000.00 in fines and is a felony under this Statute.
21

22 A person manufactured, cultivated, delivered, or possessed with intent to deliver or sold any
23 Marijuana shall be guilty of a crime, which is punishable by up to two (2) years of imprisonment
24 and up to \$5,000.00 in fines and is a felony under this Statute.
25

26 **C. Possession of a Controlled Substance.**

27
28 A person who possessed any controlled substances, except Marijuana, shall be guilty of a crime
29 of Possession of a Controlled Substance, which is punishable by up to two (2) years of
30 imprisonment and up to \$5,000.00 in fines and is a felony under this Statute.
31

32 A person who possessed Marijuana, shall be guilty of a crime, which is punishable by up to one
33 (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.
34

35 **D. Use of a Controlled Substance.**
36

1 A person who uses any controlled substances, except Marijuana, shall be guilty of a crime of Use
2 of a Controlled Substance-Non-Marijuana, which is punishable by up to one (1) year of
3 imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute
4

5 A person who uses Marijuana, shall be guilty of a crime of Use of a Controlled Substance-
6 Marijuana, which is punishable by up to one hundred and eighty (180) days of imprisonment and
7 up to \$1,000.00 in fines and is a misdemeanor under this Statute.
8

9 **E. Possession or Use of Drug Paraphernalia.**
10

11 A person who possesses or uses drug paraphernalia shall be guilty of a crime of Possession or
12 Use of Drug Paraphernalia, which is punishable by up to one hundred and eighty (180) days of
13 imprisonment and up to \$1,000.00 in fines and is a misdemeanor under this Statute
14

15 **F. Exclusion from Controlled Substances.**
16

17 Use of certain Controlled Substances for Cultural or Religious Purposes or in accordance with
18 the Medical Marijuana Statute shall be exempt under this section.
19

20 **G. Unlawful Sale, Manufacture, Alteration, Delivery, Uttering, or Possession of**
21 **Counterfeit-Resistant Prescription Blanks for Controlled Substances.**
22

23 A person sold, manufactured, altered, delivered, uttered, or possessed any counterfeit-resistant
24 prescription blanks for controlled substances; and the counterfeit-resistant prescription blanks
25 for controlled substances were in the form and content established by the [Department of Health
26 – Michigan or LTBB]; and intended to injure or defraud any person, or to facilitate the use of the
27 counterfeit-resistant prescription blanks shall be guilty of a crime of Unlawful Sale,
28 Manufacture, Alteration, Delivery, Uttering, or Possession of Counterfeit-Resistant Prescription
29 Blanks for Controlled Substances, which is punishable by up to one hundred and eighty (180)
30 days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
31

32 **1. Definitions.** “Utter” means to pass, present, or publish.
33
34

35 **SECTION XXVI. RACKETEERING**
36

1 **A. Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S. Code**
2 **Chapter 96.**

4 **B. Use or Investment of Proceeds from Pattern of Racketeering Activity.**

6 A person participated in two or more criminal incidents that had the same or similar intents,
7 results, accomplices, victims, or methods of commission or were interrelated by distinguishing
8 characteristics and were not isolated incidents; or a person had criminal intent and received
9 proceeds that were derived directly or indirectly from such incidents; or a person used or
10 invested some of the proceeds either directly or indirectly in acquiring some right, title, equity or
11 interest in real property or in establishing or operating an enterprise shall be guilty of a crime of
12 Use or Investment of Proceeds from Pattern of Racketeering Activity, which is punishable by up
13 to one (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this
14 Statute.

16 **1. Definition.** “Receiving proceeds with criminal intent” means that a person, at the
17 time of receiving the proceeds, either knew the source of the proceeds or had suspicions
18 aroused, but deliberately failed to make further inquiry as to the source of the proceeds.

20 **C. Use or Investment of Proceeds from Collection of Unlawful Debt.**

22 A person had criminal intent when he or she received proceeds that were derived directly or
23 indirectly from the collection of an unlawful debt; and used or invested some of the proceeds
24 either directly or indirectly in acquiring some right, title, equity, or interest in real property; or in
25 establishing or operating an enterprise shall be guilty of a crime of Use or Investment of
26 Proceeds from Collection of Unlawful Debt, which is punishable by up to one (1) year of
27 imprisonment and up to \$5,000.00 in fines and is a misdemeanor under this Statute.

29 **1. Definitions.**

31 **a.** “Receiving proceeds with criminal intent” means that a person, at the time
32 of receiving the proceeds, either knew the source of the proceeds or had
33 suspicions around, but deliberately failed to make further inquiry as to the source
34 of the proceeds

36 **b.** “Real property” means land, anything erected on it, and any interest in it.

1
2 c. “Enterprise” means an ongoing organization, formal or informal, that both
3 functions a continuing unit and has a common purpose of engaging in a course of
4 conduct.
5

6 **D. Acquisition or Maintenance through Pattern of Racketeering Activity.**
7

8 A person was engaged in two or more criminal incidents that had the same or similar intents,
9 results, accomplices, victims, or methods of commission, or were interrelated by distinguishing
10 characteristics and were not isolated incidents; and acquired, as a result of the criminal incidents,
11 directly or indirectly, an interest in or control of an enterprise or real property shall be guilty of a
12 crime of Acquisition or Maintenance through Pattern of Racketeering Activity, which is
13 punishable by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a
14 misdemeanor under this Statute.
15

16 **E. Acquisition or Maintenance through Collection of Unlawful Debt.**
17

18 A person acquired or maintained, directly or indirectly, an interest in or control of an enterprise
19 or real property; and did so through the knowing collection of an unlawful debt shall be guilty of
20 a crime of Acquisition or Maintenance through Collection of Unlawful Debt, which is punishable
21 by up to one (1) year of imprisonment and up to \$5,000.00 in fines and is a misdemeanor under
22 this Statute.
23

24 **F. Conduct of or Participation in an Enterprise through Collection of Unlawful Debt.**
25

26 A person was employed by or associated with an enterprise; and conducted or participated in,
27 directly or indirectly, such enterprise through the knowing collection of an unlawful debt shall be
28 guilty of a crime of Conduct of or Participation in an Enterprise through Collection of Unlawful
29 Debt, which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
30 \$2,000.00 in fines and is a misdemeanor under this Statute.
31

32 **G. Conduct of or Participation in an Enterprise through a Pattern of Racketeering**
33 **Activity.**
34

35 A person was employed by or associated with an enterprise; and conducted or participated in,
36 directly or indirectly, such enterprise by engaging in two or more criminal incidents; and the

1 criminal incidents had the same or similar intents, results, accomplices, victims, or methods of
2 commission; or were interrelated by distinguishing characteristics and were not isolated incidents
3 shall be guilty of a crime of Conduct of or Participation in an Enterprise through a Pattern of
4 Racketeering Activity, which is punishable by up to one hundred and eighty days (180) of
5 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

7 **H. Conspiracy to Engage in Pattern of Racketeering Activity.**

8
9 Two or more persons, in some manner, came to a mutual understanding to try to accomplish a
10 common and unlawful racketeering plan; and a person knowingly and willfully became a
11 member of the conspiracy; and joined the conspiracy with the specific intent either to personally
12 engage in at least two incidents of racketeering, or specifically intended to otherwise participate
13 in the affairs of the enterprise with the knowledge and intent that the other members of the
14 conspiracy would engage in at least two incidents of racketeering as part of a pattern of
15 racketeering activity shall be guilty of a crime of Conspiracy to Engage in Pattern of
16 Racketeering Activity, which is punishable by up to one hundred and eighty (180) days of
17 imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

18
19 **1.** It is not necessary for the Tribe to prove that a person had full knowledge of all
20 the details of the unlawful scheme or the names and identities of all other alleged
21 conspirators. It is sufficient that a person had an understanding of the unlawful nature of
22 the plan and knowingly and willfully joined in that plan.

23 **2. Definitions.**

24
25
26 **a.** “Conspiracy” means an agreement between two or more persons joined
27 together in an attempt to accomplish a crime that would be in violation of the law.

28
29 **b.** “Pattern of racketeering activity” means engaging in at least two incidents
30 of racketeering conduct that have the same or similar intents, results, accomplices,
31 victims, or methods of commission; or that otherwise are interrelated by
32 distinguishing characteristics and are not isolated incidents.

33
34 **3. Defense.** It is a defense to the crime of Conspiracy to Engage in a Pattern of
35 Racketeering Activity that a person, after knowingly entering into a conspiracy with one
36 or more persons, later persuaded those persons not to engage in such activity or otherwise

1 prevented commission of the crime. However, a mere attempt to dissuade one from
2 engaging in the criminal activity is insufficient.
3
4

5 **SECTION XXVII. ESCAPE**

6

7 **A. Escape.**

8

9 A person was under arrest and in the lawful custody of a law enforcement official; or was
10 convicted of a crime and sentenced to a term of imprisonment and committed to a detention
11 center, correctional facility, jail, or prison by a court; and was confined as a prisoner at the either
12 a detention center, correctional facility, jail, or prison, or was being transported to or from a
13 place of confinement; and escaped or attempted to escape with intent to avoid lawful
14 confinement shall be guilty of a crime of Escape, which is punishable by up to one hundred and
15 eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
16 Statute.
17

18 **B. Helping a Person Escape from Lawful Custody.**

19

20 A person helped or attempted to help another escape; and the other person was in lawful custody
21 shall be guilty of a crime of Helping a Person Escape from Lawful Custody, which is punishable
22 by up to one hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is
23 a misdemeanor under this Statute.
24
25

26 **SECTION XXVIII. TRANSPORTATION CRIMES**

27

28 **A. Impaired Driving.**

29

30 A person, whether licensed or not, operates a vehicle upon a highway or other place open to the
31 general public or generally accessible to motor vehicles, including an area designated for the
32 parking of vehicles, within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa
33 Indians; and the person is operating while intoxicated shall be guilty of a crime of Impaired
34 Driving, which is punishable by up to one hundred and eighty (180) days of imprisonment and
35 up to \$2,000.00 in fines. Impaired driving means a person is under the influence of alcoholic
36 liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance

1 and the person's ability to operate the motor vehicle is visibly impaired due to the consumption
2 of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled
3 substance.
4

5 **B. Driving under the Influence.**
6

7 A person, whether licensed or not, operates a vehicle upon a highway or other place open to the
8 general public or generally accessible to motor vehicles, including an area designated for the
9 parking of vehicles, within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa
10 Indians; and the person is operating while intoxicated shall be guilty of a crime of Driving under
11 the Influence, which is punishable by up to one hundred and eighty (180) days of imprisonment
12 and up to \$2,000.00 in fines. Operating while intoxicated" means the person has an alcohol
13 content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67
14 milliliters of urine and the person's ability to operate the motor vehicle is visibly impaired due to
15 the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor
16 and a controlled substance.
17

18 **C. Driving while Intoxicated Causing Death or Serious Injury.**
19

20 A person, whether licensed or not, operates a vehicle upon a highway or other place open to the
21 general public or generally accessible to motor vehicles, including an area designated for the
22 parking of vehicles, within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa
23 Indians; and by the operation of that motor vehicle causes death or serious impairment of a body
24 function of another person and the person is operating while intoxicated is guilty of a crime of
25 Driving while Intoxicated Causing Death or Serious Injury, that is punishable by up to three (3)
26 years of imprisonment and up to \$15,000.00 in fines and is a felony under this Statute.
27 Operating while intoxicated" means the person has an alcohol content of 0.08 grams or more per
28 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine and the person's
29 ability to operate the motor vehicle is visibly impaired due to the consumption of alcoholic
30 liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
31

32 **D. Permitting Impaired Driving.**
33

34 The owner of a vehicle or a person in charge or in control of a vehicle authorizes or knowingly
35 permits the vehicle to be operated upon a highway or other place open to the general public or
36 generally accessible to motor vehicles, including an area designated for the parking of motor

1 vehicles, within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians;
2 and the person is operating while intoxicated shall be guilty of a crime of Permitting Impaired
3 Driving, which is punishable by up to one hundred and eighty (180) days of imprisonment and
4 up to \$2,000.00 in fines. Impaired driving means a person is under the influence of alcoholic
5 liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance
6 and the person's ability to operate the motor vehicle is visibly impaired due to the consumption
7 of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled
8 substance.

9
10 **E. Permitting Driving under the Influence.**

11
12 The owner of a vehicle or a person in charge or in control of a vehicle authorizes or knowingly
13 permits the vehicle to be operated upon a highway or other place open to the general public or
14 generally accessible to motor vehicles, including an area designated for the parking of motor
15 vehicles, within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians;
16 and the person is operating while intoxicated shall be guilty of a crime of Permitting Driving
17 under the Influence, which is punishable by up to one hundred and eighty (180) days of
18 imprisonment and up to \$2,000.00 in fines. Operating while intoxicated" means the person has
19 an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or
20 per 67 milliliters of urine and the person's ability to operate the motor vehicle is visibly impaired
21 due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic
22 liquor and a controlled substance.

23
24 **F. Under age of 21, Impaired Driving.**

25
26 A person who is less than 21 years of age, whether licensed or not, who operates a vehicle upon
27 a highway or other place open to the general public or generally accessible to motor vehicles,
28 including an area designated for the parking of vehicles, within the territorial jurisdiction of the
29 Little Traverse Bay Bands of Odawa Indians; and the person is operating while intoxicated shall
30 be guilty of a crime of Under age of 21, Impaired Driving, which is punishable by up to one
31 hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines. Operating while
32 impaired means the person has any presence of alcohol within a person's body resulting from the
33 consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a
34 generally recognized religious service or, a controlled substance, or a combination of alcoholic
35 liquor and a controlled substance and the person's ability to operate the motor vehicle is visibly

1 impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of
2 alcoholic liquor and a controlled substance.

3
4 **G. Super Drunk Driving.**

5
6 A person, whether licensed or not, operates a vehicle upon a highway or other place open to the
7 general public or generally accessible to motor vehicles, including an area designated for the
8 parking of vehicles, within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa
9 Indians; and the person is operating while intoxicated shall be guilty of a crime of Super Drunk
10 Driving, which is punishable by up to one (1) year of imprisonment and up to \$5,000.00 in fines.
11 Super Drunk Driving means the person has an alcohol content of 0.17 grams or more per 100
12 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

13
14 **H. Driving with a Loaded Firearm.**

15
16 A person was operating a motor vehicle; and there was a loaded firearm present in the vehicle
17 shall be guilty of a crime of Driving with a Loaded Firearm, which is punishable by up to one
18 hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
19 misdemeanor under this Statute.

20
21 **I. Fleeing to Elude a Law Enforcement Officer.**

22
23 A person was operating a motor vehicle upon a street or highway within the territorial
24 jurisdiction of the Little Traverse Bay Bands of Odawa Indians; and a duly authorized law
25 enforcement officer ordered a person to stop or remain stopped; and knew he or she was ordered
26 to stop by a duly authorized law enforcement officer; and willfully refused or failed to stop the
27 vehicle in compliance with the order; or stopped the vehicle, then willfully fled in a vehicle in an
28 attempt to elude the officer shall be guilty of a crime of Fleeing to Elude a Law Enforcement
29 Officer, which is punishable by up to one hundred and eighty (180) days of imprisonment and up
30 to \$2,000.00 in fines and is a misdemeanor under this Statute.

31
32 **1. Definition.** “Operating” means a person is in actual physical control of a motor
33 vehicle upon the street or highway or who is exercising control over or steering a vehicle
34 being towed by a motor vehicle.

35
36 **J. Refusal to Submit to Testing.**

1
2 A law enforcement officer had probable cause to believe a person drove, or was in actual
3 physical control of a motor vehicle while under the influence of an alcoholic beverage or a
4 controlled substance to the extent that a person's normal faculties were impaired; and the law
5 enforcement officer arrested a person for Driving under the Influence, or requested a blood or
6 breath test; and was informed that a refusal to submit to the test could lead to the suspension of a
7 person's privilege to operate a motor vehicle; and after being informed, refused to submit to the
8 test when requested to do so by a law enforcement or correctional officer; and shall be guilty of a
9 crime of Refusal to Submit to Testing, which is punishable by up to one hundred and eighty
10 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
11 Statute.

12
13 **1. Definitions.**

14
15 **a.** "Actual physical control" means physically in or on the motor vehicle and
16 having the capability to operate the motor vehicle, regardless of whether the
17 person is actually operating the vehicle at the time.

18
19 **b.** "Probable cause" exists where the totality of the circumstance, from the
20 perspective of the law enforcement officer's knowledge, training, and experience,
21 gave the officer reasonable grounds and a fair probability to believe that a crime
22 had been committed.

23
24 **K. Boating under the Influence.**

25
26 A person operated a vessel; and while operating the vessel, was under the influence of alcoholic
27 beverages, a chemical substance, or a controlled substance to the extent that his or her normal
28 faculties were impaired; or had a blood or breath alcohol level or .08 or more grams of alcohol
29 per 100 milliliters of blood or 210 liters of breath shall be guilty of a crime of Boating under the
30 Influence, which is punishable by up to one hundred and eighty (180) days of imprisonment and
31 up to \$2,000.00 in fines and is a misdemeanor under this Statute.

32
33 **1. Defense.** It is a defense to Boating under the Influence if the vessel was
34 inoperable at the time of the alleged crime, unless a person was controlling or steering the
35 vessel while it was being towed by another vessel. It is not a defense if a person was
36 boating under the Influence before the vessel became inoperable.

1
2 **2. Definitions.**
3

4 **a.** “Alcoholic beverages” means any kind of beverage that contains any
5 amount of alcohol.
6

7 **b.** “Operate” means to be in charge of, in command of, or in actual physical
8 control of a vessel upon the waters of [this state or within the jurisdiction of
9 LTBB]; or to exercise control over, or to have responsibility for a vessel’s
10 navigation or safety while the vessel is underway upon the water of [the State of
11 Michigan or within the jurisdiction of LTBB]; or to control or steer a vessel being
12 towed by another vessel.
13

14
15 **SECTION XXIX. MISCELLANEOUS CRIMES**
16

17 **A. Disorderly Intoxication.**
18

19 A person was intoxicated, and endangered the safety of another person, property, or was unable
20 to care for his or her own safety; or was intoxicated or drank any alcoholic beverage in a public
21 place or upon a public conveyance, and caused a public nuisance or disturbance shall be guilty of
22 a crime of Disorderly Intoxication, which is punishable by up to one hundred and eighty (180)
23 days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
24

25 **1. Definitions.**
26

27 **a.** “Intoxication” means that a person must have been so affected from the
28 drinking of an alcoholic beverage as to have lost or been deprived of the normal
29 control of his or her faculties.
30

31 **b.** “Public place” means a place where the public has a right to be.
32

33 **B. Contributing to the Delinquency of a Minor.**
34

35 An adult person aided, abetted, or encouraged any minor to commit an act that would be an
36 crime under this Statute shall be guilty of a crime of Contributing to the Delinquency of a Minor,

1 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
2 \$2,000.00 in fines and is a misdemeanor under this Statute.

3
4 **C. Furnishing Alcohol to a Person under twenty-one (21) Years of Age.**

5
6 A person knowingly furnished, purchased, provided, or in any way procured an alcoholic
7 beverage; and did so for the possession or consumption by a person under twenty-one (21) years
8 of age shall be guilty of a crime of Furnishing Alcohol to a Person under twenty-one (21) years
9 of age, which is punishable by up to one hundred and eighty (180) days of imprisonment and up
10 to \$2,000.00 in fines and is a misdemeanor under this Statute.

11
12 **D. Allowing a Person under twenty one (21) Years of Age to Consume Alcohol.**

13
14 A person knowingly allowed a person under the age of twenty one (21) years to consume
15 alcohol; and the person under twenty one (21) years consumed the alcohol at their residence, in
16 their vehicle, or otherwise in their presence shall be guilty of a crime of Allowing a Person under
17 twenty one (21) Years of Age to Consume Alcohol, which is punishable by up to one hundred
18 and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under
19 this Statute.

20
21 **E. Possession or Consumption of Alcohol by a Person under twenty-one (21) Years of**
22 **Age.**

23
24 A person was under twenty-one (21) years of age; and knowingly possessed or consumed any
25 alcoholic beverage shall be guilty of a crime of Possession or Consumption of Alcohol by a
26 Person under twenty-one (21) years of age, which is punishable by up to one hundred and eighty
27 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
28 Statute.

29
30 **F. Sale of Alcohol without a License.**

31
32 A person did not have a valid license under the laws of the State of Michigan or the laws of the
33 Little Traverse Bay Bands of Odawa Indians to sell alcohol; and sold alcohol; or possessed
34 alcohol with the intent to sell it shall be guilty of a crime of Sale of Alcohol without a License,
35 which is punishable by up to one hundred and eighty (180) days of imprisonment and up to
36 \$2,000.00 in fines and is a misdemeanor under this Statute.

1
2 **G. Disorderly Conduct.**
3

4 A person intentionally, knowingly, and recklessly engaged in fighting or provoked a fight; or
5 made any protracted commotion that prevented the transaction of the business of a lawful
6 meeting, gathering, or procession; or made loud and unreasonable noise; or engaged in the
7 consumption of alcohol out of doors with two or more people without a Tribal permit shall be
8 guilty of a crime of Disorderly Conduct, which is punishable by up to one hundred and eighty
9 (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
10 Statute.
11

12 **H. Loitering or Prowling.**
13

14 A person loitered or prowled in a place, at a time, or in a manner unusual for law-abiding
15 individuals; and the loitering or prowling was under circumstances that warranted justifiable and
16 reasonable alarm or immediate concern for the safety of persons or property in the vicinity shall
17 be guilty of a crime of Loitering or Prowling, which is punishable by up to one hundred and
18 eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
19 Statute.
20

21 **I. Cruelty to Animals.**
22

23 A person overloaded, overdrove, tormented, mutilated, or killed an animal; or deprived an
24 animal of necessary sustenance or shelter; or otherwise in a cruel and inhumane manner; or
25 instigated any fight or combat between two or more animals, or between animals and humans
26 shall be guilty of a crime of Cruelty to Animals, which is punishable by up to one hundred and
27 eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this
28 Statute.
29

30 **1. Definitions.**
31

32 **a.** “Animal” means all mammals, birds, reptiles, and fish. This does not
33 include any mammals, birds, reptiles, or fish that are hunted by someone that has
34 a valid permit from either the State of Michigan or the Little Traverse Bay Bands
35 of Odawa Indians.
36

1 **b.** “Torment” means any act, omission, or neglect that results in unnecessary
2 or unjustifiable pain or suffering that is caused, permitted, or allowed to continue.

- 3
4 **2.** Exemptions are made for fishing, hunting, trapping, wildlife control, horse racing,
5 operation of a zoological park or aquarium, pest or rodent control, farming,
6 husbandry, and research.

7
8 **J. Dumping of Hazardous Material.**

9
10 A person threw, placed, dropped, or otherwise disposed of hazardous material; and did so at a
11 place that is not a lawful disposal site for such hazardous materials shall be guilty of a crime of
12 Dumping of Hazardous Material, which is punishable by up to one hundred and eighty (180)
13 days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.

14
15 **1. Definitions.**

16
17 **a.** “Hazardous material” means any substance or material that could
18 adversely affect the safety of the public, handlers, or carriers during
19 transportation.

20
21 **b.** “Lawful disposal site” means a site specifically designated for the disposal
22 of hazardous material as designated by the [Natural Resource Department of the
23 Little Traverse Bay Bands of Odawa Indians].

24
25 **K. Riot.**

26
27 A person was with five or more persons acting together; and intentionally, knowingly, or
28 recklessly used force or violence, or threatened to use force or violence; and the person’s actions
29 disturbed the public peace shall be guilty of a crime of Riot, which is punishable by up to one
30 hundred and eighty (180) days of imprisonment and up to \$2,000.00 in fines and is a
31 misdemeanor under this Statute.

32
33 **L. Youth and Unlawful Use of Tobacco.**

34
35 A person was a minor and had possession, used, or purchased tobacco or tobacco products; or
36 allowed a minor to possess, use, or purchase tobacco or tobacco products.

1
2 **Defense.** It is a defense to the crime of Youth and Tobacco, if a person possessed or used the
3 tobacco in furtherance of a recognized tribal or religious purpose shall be guilty of a crime of
4 Youth and Unlawful Use of Tobacco, which is punishable by up to one hundred and eighty (180)
5 days of imprisonment and up to \$2,000.00 in fines and is a misdemeanor under this Statute.
6
7

8 **SECTION XXX. SEVERABILITY**
9

10 If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for
11 any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion
12 shall be deemed a separate, distinct and independent provision and such holding shall not affect
13 the validity of the remaining portions thereof.
14
15

16 **SECTION XXXI. EFFECTIVE DATE**
17

18 Effective upon signature of the Executive or 30 days from Tribal Council approval
19 whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council
20 override of the veto.
21
22

23 **SECTION XXXII. OTHER RELATED STATUTES**
24

25 See Crimes, Sex Offense, Sex Offender Registration and Notification Statute, Felony Defined
26 Statute, Domestic Violence Statute, Victim's Rights Statute, Personal Protection Orders and No
27 Contact Orders and Violations Of Protective Orders, Medical Marijuana Patient Protection, or as
28 may be amended.
29
30

31 **CERTIFICATION**
32